

a printout that lists in appropriate sequence the instructions, routines, and other contents of a program for a computer. The program listing may be either in machine or machine-independent (object or source) language which will cause a computer to perform a desired procedure or task such as solve a problem, regulate the flow of work in a computer, or control or monitor events. Computer program listings may be submitted in patent applications as set forth in paragraphs (b) and (c) of this section.

(b) *Material which will be printed in the patent:* If the computer program listing is contained in 300 lines or fewer, with each line of 72 characters or fewer, it may be submitted either as drawings or as part of the specification.

(1) *Drawings.* If the listing is submitted as drawings, it must be submitted in the manner and complying with the requirements for drawings as provided in §1.84. At least one figure numeral is required on each sheet of drawing.

(2) *Specification.* (i) If the listing is submitted as part of the specification, it must be submitted in accordance with the provisions of §1.52.

(ii) Any listing having more than 60 lines of code that is submitted as part of the specification must be positioned at the end of the description but before the claims. Any amendment must be made by way of submission of a substitute sheet.

(c) *As an appendix which will not be printed:* Any computer program listing may, and any computer program listing having over 300 lines (up to 72 characters per line) must, be submitted on a compact disc in compliance with §1.52(e). A compact disc containing such a computer program listing is to be referred to as a “computer program listing appendix.” The “computer program listing appendix” will not be part of the printed patent. The specification must include a reference to the “computer program listing appendix” at the location indicated in §1.77(b)(5).

(1) Multiple computer program listings for a single application may be placed on a single compact disc. Multiple compact discs may be submitted for a single application if necessary. A separate compact disc is required for

each application containing a computer program listing that must be submitted on a “computer program listing appendix.”

(2) The “computer program listing appendix” must be submitted on a compact disc that complies with §1.52(e) and the following specifications (no other format shall be allowed):

(i) Computer Compatibility: IBM PC/XT/AT, or compatibles, or Apple Macintosh;

(ii) Operating System Compatibility: MS-DOS, MS-Windows, Unix, or Macintosh;

(iii) Line Terminator: ASCII Carriage Return plus ASCII Line Feed;

(iv) Control Codes: the data must not be dependent on control characters or codes which are not defined in the ASCII character set; and

(v) Compression: uncompressed data.

[61 FR 42804, Aug. 19, 1996, as amended at 65 FR 54670, Sept. 8, 2000; 70 FR 54266, Sept. 14, 2005]

#### INFORMATION DISCLOSURE STATEMENT

#### § 1.97 Filing of information disclosure statement.

(a) In order for an applicant for a patent or for a reissue of a patent to have an information disclosure statement in compliance with §1.98 considered by the Office during the pendency of the application, the information disclosure statement must satisfy one of paragraphs (b), (c), or (d) of this section.

(b) An information disclosure statement shall be considered by the Office if filed by the applicant within any one of the following time periods:

(1) Within three months of the filing date of a national application other than a continued prosecution application under §1.53(d);

(2) Within three months of the date of entry of the national stage as set forth in §1.491 in an international application;

(3) Before the mailing of a first Office action on the merits; or

(4) Before the mailing of a first Office action after the filing of a request for continued examination under §1.114.

(c) An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided

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that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application, and it is accompanied by one of:

(1) The statement specified in paragraph (e) of this section; or

(2) The fee set forth in § 1.17(p).

(d) An information disclosure statement shall be considered by the Office if filed by the applicant after the period specified in paragraph (c) of this section, provided that the information disclosure statement is filed on or before payment of the issue fee and is accompanied by:

(1) The statement specified in paragraph (e) of this section; and

(2) The fee set forth in § 1.17(p).

(e) A statement under this section must state either:

(1) That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or

(2) That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement.

(f) No extensions of time for filing an information disclosure statement are permitted under § 1.136. If a bona fide attempt is made to comply with § 1.98, but part of the required content is inadvertently omitted, additional time may be given to enable full compliance.

(g) An information disclosure statement filed in accordance with this section shall not be construed as a representation that a search has been made.

(h) The filing of an information disclosure statement shall not be con-

strued to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in § 1.56(b).

(i) If an information disclosure statement does not comply with either this section or § 1.98, it will be placed in the file but will not be considered by the Office.

[57 FR 2034, Jan. 17, 1992, as amended at 59 FR 32658, June 24, 1994; 60 FR 20226, Apr. 25, 1995; 61 FR 42805, Aug. 19, 1996; 62 FR 53190, Oct. 10, 1997; 65 FR 14872, Mar. 20, 2000; 65 FR 54670, Sept. 8, 2000]

### § 1.98 Content of information disclosure statement.

(a) Any information disclosure statement filed under § 1.97 shall include the items listed in paragraphs (a)(1), (a)(2) and (a)(3) of this section.

(1) A list of all patents, publications, applications, or other information submitted for consideration by the Office. U.S. patents and U.S. patent application publications must be listed in a section separately from citations of other documents. Each page of the list must include:

(i) The application number of the application in which the information disclosure statement is being submitted;

(ii) A column that provides a space, next to each document to be considered, for the examiner's initials; and

(iii) A heading that clearly indicates that the list is an information disclosure statement.

(2) A legible copy of:

(i) Each foreign patent;

(ii) Each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office;

(iii) For each cited pending unpublished U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion; and

(iv) All other information or that portion which caused it to be listed.

(3)(i) A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content